

1 **PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

2 Name DASH, LAWRENCE E. *08 MAR 17 PM 3:39*
(Last) (First) (Initial) *CLERK'S OFFICE, NORTHERN DISTRICT OF CALIFORNIA*

3 Prisoner Number F-49769

4 Institutional Address FOLSOM STATE PRISON P.O. Box 715071
REPRESA, CA 95671

7 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA

8 LAWRENCE E. DASH

9 (Enter the full name of plaintiff in this action.)

CV}

RMW

08

0964

Case No.

(To be provided by the clerk of court)

10 **PETITION FOR A WRIT**
OF HABEAS CORPUS

(PR)

11 MATTHEW C. KILAMEIC

12 WARDEN

13 FOLSOM STATE PRISON

14 (Enter the full name of respondent(s) or jailor in this action)

E-filing

16 Read Comments Carefully Before Filling In

17 When and Where to File

18 You should file in the Northern District if you were convicted and sentenced in one of these
19 counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa,
20 San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in
21 this district if you are challenging the manner in which your sentence is being executed, such as loss of
22 good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

23 If you are challenging your conviction or sentence and you were not convicted and sentenced in
24 one of the above-named fifteen counties, your petition will likely be transferred to the United States
25 District Court for the district in which the state court that convicted and sentenced you is located. If
26 you are challenging the execution of your sentence and you are not in prison in one of these counties,
27 your petition will likely be transferred to the district court for the district that includes the institution
28 where you are confined. Habeas L.R. 2254-3(b).

1 Who to Name as Respondent

2 You must name the person in whose actual custody you are. This usually means the Warden or
 3 jailor. Do not name the State of California, a city, a county or the superior court of the county in which
 4 you are imprisoned or by whom you were convicted and sentenced. These are not proper
 5 respondents.

6 If you are not presently in custody pursuant to the state judgment against which you seek relief
 7 but may be subject to such custody in the future (e.g., detainers), you must name the person in whose
 8 custody you are now and the Attorney General of the state in which the judgment you seek to attack
 9 was entered.

10 A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

11 1. What sentence are you challenging in this petition?

12 (a) Name and location of court that imposed sentence (for example; Alameda
 13 County Superior Court, Oakland):

14 SAN FRANCISCO SUPERIOR COURT - SAN FRANCISCO COUNTY

15	Court	Location
16	(b) Case number, if known	<u>10-28-2006</u>
17	(c) Date and terms of sentence	<u>3 yr - 4 yr, 1 yr CONSECUTIVE</u>
18	(d) Are you now in custody serving this term? (Custody means being in jail, on	
19	parole or probation, etc.)	Yes <u>X</u> No _____

20 Where?

21 Name of Institution: FOLSOM STATE PRISON

22 Address: P.O. BOX 715071, REEDSBURG, CA 95671

23 2. For what crime were you given this sentence? (If your petition challenges a sentence for
 24 more than one crime, list each crime separately using Penal Code numbers if known. If you are
 25 challenging more than one sentence, you should file a different petition for each sentence.)

26 ROBBERY 2ND P212.5(c) 3 yr TERM CASE # 197706

27 ROBBERY P212.5(c) PC 2933.1 - 4 yr TERM

28 1 yr ENHANCEMENT - ALL (3 TERM) RUN CONSECUTIVE.

1 3. Did you have any of the following?

2 Arraignment: Yes No

3 Preliminary Hearing: Yes No

4 Motion to Suppress: Yes No

5 4. How did you plead?

6 Guilty Not Guilty Nolo Contendere

7 Any other plea (specify) PLEA GUILTY TO 3 CONSECUTIVE TERMS

8 5. If you went to trial, what kind of trial did you have?

9 Jury Judge alone Judge alone on a transcript

10 6. Did you testify at your trial? Yes No

11 7. Did you have an attorney at the following proceedings:

12 (a) Arraignment Yes No

13 (b) Preliminary hearing Yes No

14 (c) Time of plea Yes No

15 (d) Trial Yes No

16 (e) Sentencing Yes No

17 (f) Appeal Yes No

18 (g) Other post-conviction proceeding Yes No

19 8. Did you appeal your conviction? Yes No

20 (a) If you did, to what court(s) did you appeal?

21 Court of Appeal Yes No

22 Year: _____ Result: _____

23 Supreme Court of California Yes No

24 Year: _____ Result: _____

25 Any other court Yes No

26 Year: _____ Result: _____

27 (b) If you appealed, were the grounds the same as those that you are raising in this

petition? Yes No

Yes No

(c) Was there an opinion? Yes No

Yes No

(d) Did you seek permission to file a late appeal under Rule 31(a)?

Yes No

If you did, give the name of the court and the result:

Yes No ✓

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that
11 challenged the same conviction you are challenging now and if that petition was denied or dismissed
12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit
13 for an order authorizing the district court to consider this petition. You may not file a second or
14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28
15 U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: _____

Type of Proceeding: _____

Grounds raised (Be brief but specific):

a. _____

b. _____

C. _____

d. _____

Result: _____ Date of Result: _____

Name of Court: _____

Type of Proceeding: _____

Grounds raised (Be brief but specific):

1 a. _____
2 b. _____
3 c. _____
4 d. _____

5 Result: _____ Date of Result: _____

6 III. Name of Court: _____

7 Type of Proceeding: _____

8 Grounds raised (Be brief but specific):

9 a. _____
10 b. _____
11 c. _____
12 d. _____

13 Result: _____ Date of Result: _____

14 IV. Name of Court: _____

15 Type of Proceeding: _____

16 Grounds raised (Be brief but specific):

17 a. _____
18 b. _____
19 c. _____
20 d. _____

21 Result: _____ Date of Result: _____

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

23 Yes _____ No

24 Name and location of court: _____

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to
27 support each claim. For example, what legal right or privilege were you denied? What happened?
28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 Note: You must present ALL your claims in your first federal habeas petition. Subsequent
 3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
 4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: 3 yr CONSECUTIVE TERM FOR ROBBERY 212.

6 TO RUN CONSECUTIVE TO 2ND AND 3RD TERMS.

7 Supporting Facts: A CONSECUTIVE SENTENCE CARRIES

8 1/3 OF THE MID-TERM OF THAT CHARGE.

9 TERMS FOR ROBBERY 212. 2yr - 3^{MIN} yr - 5yr.

10 FIRST SENTENCE SHOULD HAVE BEEN COMPLETED

11 Claim Two: 4yr CONSECUTIVE TERM FOR ROBBERY 212.

12 TO RUN CONSECUTIVE OF 1ST AND 3RD TERMS.

13 Supporting Facts: THERE IS NO STATE 4yr TERM FOR

14 ROBBERY 212. 1/3 CONSECUTIVE RULING FOR

15 MID-TERM WAS NOT GIVEN.

16 CONSECUTIVE MEANS CONSECUTIVE.

17 Claim Three: 1yr CONSECUTIVE ENHANCEMENT TERM.

18 RELEASE DATE: 8-27-2021 IS WRONG.

19 Supporting Facts: CDCR TOOK 3 CONSECUTIVE TERMS

20 AND CAME UP WITH 1 - 8yr SENTENCE AT 85%.

21 TO SERVE. I'M SERVING 85% OF A 3yr TERM THAT

22 IS OVER. ENHANCEMENTS ARE NOT 85%.

23 If any of these grounds was not previously presented to any other court, state briefly which

24 grounds were not presented and why:

25 CDCR TURNED 3 CONSECUTIVE TERMS INTO ONE

26 8yr TERM. THE STATE COURT GAVE ME 3 TERMS

27 TO RUN CONSECUTIVE OF EACH OTHER. NOT (1)

28 SINGLE TERM. CDCR TOOK THE CONSECUTIVE OFF.

1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 PEN C § 669; PEOPLE VS. CARR (1986) 6 2ND
5 227, 57 P2d 489.

6

7 Do you have an attorney for this petition?

Yes

No

8 If you do, give the name and address of your attorney:

9

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12

13 Executed on MARCH, 11th 2008

Laura E. Dorn

14

Date

Signature of Petitioner

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20 (Rev. 6/02)

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2/28/08

To: Dash, Lawrence #F-49769

From: B. Dozier, CCRA

In response to your concerns:

1. You have one enhancement (PC 12022.5) which is being served consecutively with a 4 yr term. It is considered violent & is correctly coded as a credit code 4 offense. See attachment.
2. There is nothing in your paperwork referring to you as a second striker.
3. You have been correctly coded, time credits accounted for correctly & your EPRD is 8/27/2021. Attached also are copies of your LSS & calc sheet.

NOTE:

PLEASE SEND APPLICATION
TO PROCEED:

IN FORMA PAUPERIS

THIS FORM WAS NOT INCLUDED
IN PETITION PACKET SENT ON

FEB - 26 - 2008

L.E.D.

F-49769

THANK YOU

LEGAL STATUS SUMMARY TYPE- D SQ-RC ** DISCREPANT **11/13/2006 21:45

CDC NUMBER	NAME	[ETHNIC]	BIRTHDATE	
F49769	DASH, LAWRENCE ✓	BLA	04/16/1955 ✓	
TERM STARTS	MAX REL DATE	MIN REL DATE	MAX ADJ REL DT	MIN ADJ REL DT
11/08/2006	09/05/2013	08/27/2012	09/05/2013	08/27/2012
USE TERM	3/00 + ENHCMNTS	5/00 = TOT TERM	8/00	PAROLE PERIOD
				3 YRS

PRE-PRISON + POST SENTENCE CREDITS

CASE	P2900-5 P1203-3 P2900-1 CRC-CRED MH-CRED P4019	P2931 POST-SENT TOT
197706	363 ✓	54 ✓ 11 ✓ 436

PC296 DNA COMPLETED ✓

NOTIFICATION REQUIRED PER PC3056.6 ✓

RECV DT/ COUNTY/ CNT	CASE OFF-CODE	SENTENCE DATE DESCRIPTION	CREDIT CODE	OFFENSE DATE
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CONTROLLING PRINCIPAL & CONSECUTIVE (INCLUDES ENHANCEMENTS/OFFENSES):

CONTROLLING CASE	11/08/2006 SF 197706 ✓	10/27/2006	4 ✓ 10/07/2005 ✓
01 P212.5(C) - ROBBERY 2ND ✓	(H)UPN	THIS CHARGE WAS DROPPED BY STATE CODE	09 ✓ 4 ✓ 10/08/2005 ✓
02 P212.5(C) - ROBBERY 2ND ✓	P12022.5(A)	09 USE FARM	09 ✓ 4 ✓ 10/08/2005 ✓
PC 2933.1			

TRAN TYPE	DATE	END DATE	LOG NUMBER	RULE NUMBER	DAYS ASSESS LOST REST DEAD
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BEG 11/08/2006	*****BEG BAL*****
CURRENT PC BALANCE:	0
	CURRENT BC BALANCE: 374

DEPARTMENT OF CORRECTIONS AND REHABILITATION

STATE OF CALIFORNIA

CALCULATION WORKSHEET**OBIS CREDIT CODES 3,4,OR 6****CDC 1897E (04/00)****CALCULATION WORKSHEET FOR PC SECTION 667(e) AND PC SECTION 2933.1**

This form is used to calculate the Earliest Possible Release Date (EPRD) for inmates sentenced as a second-strike offender (PC Sections 667(e) or 1170.12) and violent offenders whose offense date is on or after September 21, 1994. When sentenced as a second-strike offender, the OBIS credit code is 3 (20%). When the offense is a violent offense committed on or after September 21, 1994 the OBIS credit code is 4 (15%), or 6 (15%) if a second strike violent offense.

Section A - Original EPRD Calculation		Section B - Days "C" or "D2" from Start Date through Original EPRD (Do not Include C/D2 Time That Occurs After The Original EPRD)		
1. Start Date:	11/8/2006	From	Thru*	# Days**
2. Plus Time Imposed	+ 8 YRS 0 MO			0
	= 11/8/2014			0
3. Minus Pre-Postsentence Credit	- 428			0
	= 9/6/2013			0
4. Minus Vested Credit [PC 667(e) divide by 2; PC 2933.1 divide by 5.66] (Round Down)	- 1			0
5. Plus Dead Time	+ 0			0
6. Equals Maximum Date	= 9/5/2013	Total Days "C" and/or "D2" From Start Date to Original EPRD: 0		
7. Minus Start Date (Line 1)	- 11/8/2006	Equals CDC Conduct Credit not applied while C/D2 (divide total days C/D2 by 4 [PC 667(e)] or 5.66 [PC 2933.1], Round Down) 0		
8. Equals Days to Serve	= 2493	* If the current work group is "C" or "D2" use the original EPRD as the THRU date. If the last day of D2 is earlier than the original EPRD, use the earlier date as the "THRU" date.		
9. Minus Dead Time	- 0	*** Days Equals "THRU" date minus "FROM" date plus 1 day. 0		
10 Equals Days Where Credit May Be Applied	= 2493	Section C - Credit Losses and Restorations		
11 Equals CDC Conduct Credit (Divide Line 10 by 5 [PC 667(e)] or 6.66 [PC 2933.1], (Round Down))	= 374	Date of CDC 115	Loss	Restored
12. Maximum Date (Line 6)	9/5/2013			
13. Minus CDC Conduct Credit (Line 11)	- 374			
14. Equals Original EPRD:	= 8/27/2012	Net Credit Losses:	0	
Section D: Calculating Adjusted EPRD				
1. Original EPRD (from Section A, Line 14):	8/27/2012			
2. Plus Credit Not Applied While C/D2 (from Section B):	+ 0			
3. Plus Net Credit Lost (from Section C):	+ 0			
4. Equals Adjusted EPRD (Cannot Exceed Maximum Date)	= 8/27/2012			
5. Minus Maximum Date (from Section A, Line 6):	-			
6. Equals Excess Credit Loss to Apply to Next Period Being Calculated***	=			
***Mixed Credit Codes: When credit lost exceeds credit applied (Adjusted EPRD is later than Maximum Date), subtract the Maximum Date from the Adjusted EPRD which equals the days to apply to the next period being calculated.				
CALCULATED BY (Name & Title) JULIE THOMPSON, CCRA			DATE 2/26/2007	
INMATE'S NAME DASH, LAWRENCE		CDC NUMBER F49769	LOCATION FOLSOM	

Violent Felony List pursuant to PC Section 667.5(c)

PENAL CODE (PC) SECTION	Begin Date	End Date	CRIME DESCRIPTION
PC 4500	7-1-77		Assault by Life Prisoner with a deadly weapon or instrument
PC 11418(b)(1)	1-1-00		Uses or Directly Employs Against Another Person a Weapon of Mass Destruction in a Form Which May Cause Widespread, Disabling Illness, or Injury to Human Beings. (life)
PC 11418(b)(2)(3)(4) & (c)	1-1-03		Uses or Employs Weapon(s) causing widespread great bodily injury or death of any human being, or Wide Spread damage to food, water, crops, seed, seed stock, or natural resources.
PC 12308	1-1-91		Explode Destructive Devices or Explosive w/intent to Commit Murder
PC 12309	3-8-00		Explode Destructive Devices or Explosive Causing Bodily Injury
PC 12310	8-11-77		Explode Destructive Device or Explosive Which Causes Death, Mayhem, or GBI
Any Felony in which there is a conviction for the following			
PC 12022.5	7-1-77	CHARGE DROPPED	Use of Firearm (<i>includes all subsections</i>) CHARGE DROPPED BY STATE COURT : 10-27-06
PC 12022.53	1-1-98	10-27-06	Use or Discharge of Firearm in Specified Felonies (<i>includes all subsections</i>)
PC 12022.55	1-1-90		Discharging Firearm from Motor Vehicle
PC 12022.7	7-1-77		Inflicting Great Bodily Injury (<i>includes all subsections</i>)
PC 12022.9	1-1-89		Infliction of injury causing termination of pregnancy

- Check for "STAYED" enhancements that could still make the case violent (IM CR 98/41).
- ATTEMPTS, unless specifically listed, are Not included as violent felonies (*People v. Ibarra* [1982] 134 Cal.3d 413, 425-425).
- CONSPIRACY to commit a violent offense is Not considered violent per Appellate Court Decision, *In re Mitchell* 2000 81 Cal.App.4th 653. (except, conspiracy to commit crimes punishable by life or death per PC 667.5(c)(7)).
- PC 191.5(d) even though this offense carries a "Life" term, Gross Vehicular Manslaughter w/ prior(s) is Not considered a violent offense per *People vs. Thomas* (1999) 21 C4th 1122.
- Pursuant to PC Section 2933.1, Violent Offenses (see 15 Percent Credit Limitation List) committed on or after 9/21/94 (unless otherwise noted) shall be limited to 15 percent conduct credit (includes stayed "counts"). [For more information, refer to IM CR 99/59]
- Regardless of when the crime itself was added to PC Section 667.5(c), remember to check for enhancements that could still make that offense violent.
- All violent offenses listed, (for which a term is being served) regardless of the date offense was added to PC Section 667.5(c), apply for the purposes of PC Section 3058.6 notifications. However, when the term for the violent offense is STAYED or when the enhancement that makes that offense violent is STAYED, PC Section 3058.6 does not apply. (Refer to IM CR 99/34).
- Contrary to the Serious Felony List where certain conduct can be alleged on an otherwise non-qualifying crime to establish that it is a Serious Felony, Violent Felonies based on weapons or injury require that a specific enhancement has been charged and proved under PC Section 667.5(c)(8); (c)(9); or (c)(17). Remember a "STAYED" enhancement makes that case violent.

Folsom State Prison

P.O. Box 715071

Represa, CA 95671

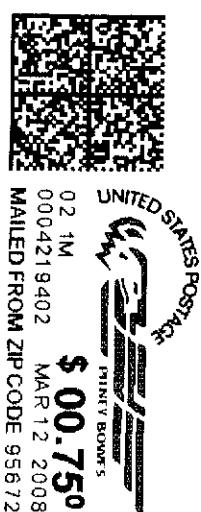
NAME: LAURENCE E. DASH

CDCR#: F-49769 Bldg/Bed: B2 - B2. 06 L

ADDRESS TO:

P.O. BOX 715071 Letter, Photos, Stamps only
P.O. BOX 1790 Money Orders only
P.O. BOX 950 Legal Mail only

LEGAL
MAIL



STATE PRISON
GENERATED MAIL

OFFICE OF THE CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA

74102-9680